



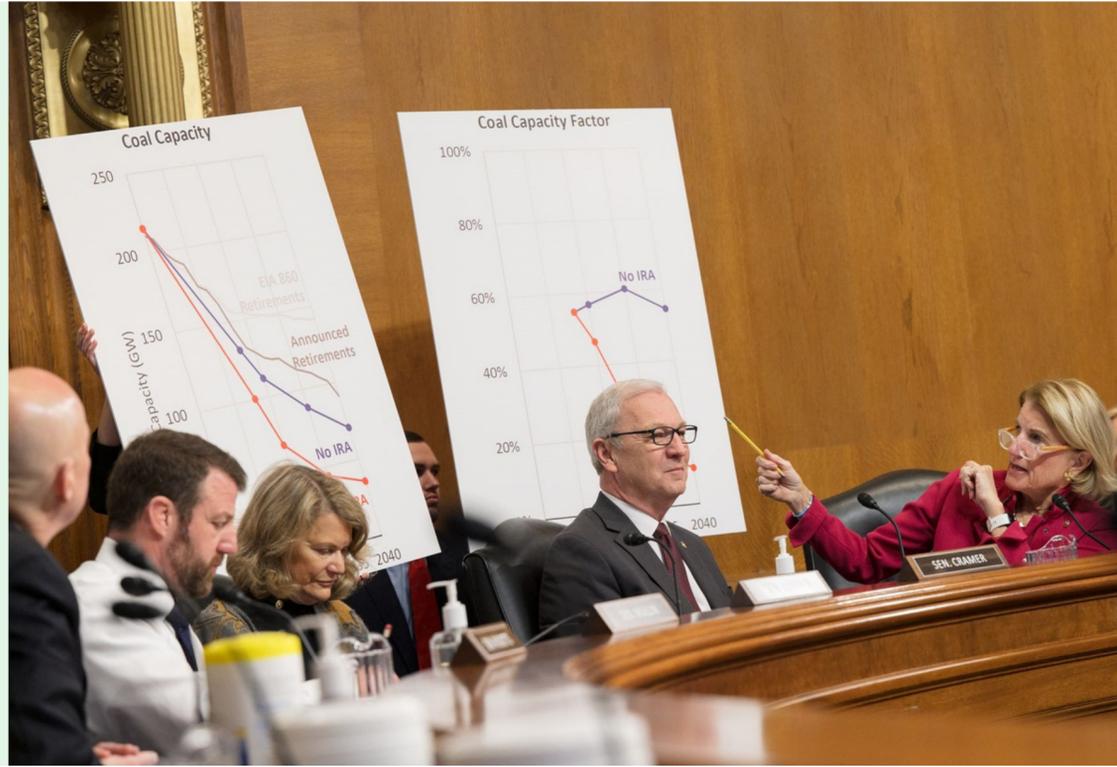
U.S. SENATE COMMITTEE on ENVIRONMENT & PUBLIC WORKS
RANKING MEMBER SHELLEY MOORE CAPITO

2023 Year in Review:

Countering Biden's Radical Green Agenda with Rigorous Oversight & Real Solutions

In 2023, Republican members of the U.S. Senate Committee on Environment and Public Works (EPW) opposed President Biden's regulatory overreach while advancing bipartisan energy, environmental, and infrastructure legislation.

Under Ranking Member Capito's leadership, EPW Republicans are standing up for millions of Americans and pushing back with relentless oversight and commonsense solutions that boost the economy, protect the environment, and lower energy costs.



Overview of EPW Republican members' mission and work

The Republican members of the Committee strive to deliver commonsense energy, environmental, and infrastructure solutions for Americans nationwide. The EPW Committee has oversight authority for agencies including the Environmental Protection Agency, Nuclear Regulatory Commission, U.S. Fish and Wildlife Service, the Council on Environmental Quality, and the Federal Highway Administration.

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EPW Republican Membership

- **Ranking Member Shelley Moore Capito (WV)**
- **Senator Kevin Cramer (ND)**, Ranking Member of the Transportation and Infrastructure Subcommittee
- **Senator Cynthia Lummis (WY)**, Ranking Member of the Fisheries, Water, and Wildlife Subcommittee
- **Senator Markwayne Mullin (OK)**, Ranking Member of the Chemical Safety, Waste Management, Environmental Justice, and Regulatory Oversight Subcommittee
- **Senator Pete Ricketts (NE)**, Ranking Member of the Clean Air, Climate, and Nuclear Safety Subcommittee
- **Senator John Boozman (AR)**
- **Senator Roger Wicker (MS)**
- **Senator Dan Sullivan (AK)**
- **Senator Lindsey Graham (SC)**

Building an economically prosperous future

(1) Streamlining the development of infrastructure projects

To make building in America easier and faster, Republican members of the EPW Committee continue to lead the fight for legislative reform of our inefficient federal permitting and environmental review processes. The *Revitalizing the Economy by Simplifying Timelines and Assuring Regulatory Transparency (RESTART) Act*, S. 1449, would make comprehensive reforms to statutes within the Committee's jurisdiction, including the National Environmental Policy Act (NEPA), the Clean Air Act, and the Clean Water Act. Several of the bill's provisions, including expediting the completion of the Mountain Valley Pipeline (MVP) and streamlining NEPA implementation, were ultimately incorporated into the *Fiscal Responsibility Act (FRA)* signed into law this year.

EPW Republicans also conduct oversight of the administration's permitting of projects under current law. For example, the EPA is not approving permits or state primacy applications for storage of captured carbon dioxide underground (known as the Class VI program) in a timely manner. This delay prevents project developers, and energy states like West Virginia, from deploying job-creating climate solutions like carbon capture, use and storage (CCUS) technologies. Despite the Infrastructure Investment and Jobs Act (IIJA) providing the EPA with \$25 million to process Class VI permits for CCUS, more than two years later, the Agency has yet to issue a single permit. The EPA's failure to permit wells using that funding is now the subject of an EPA Inspector General investigation.

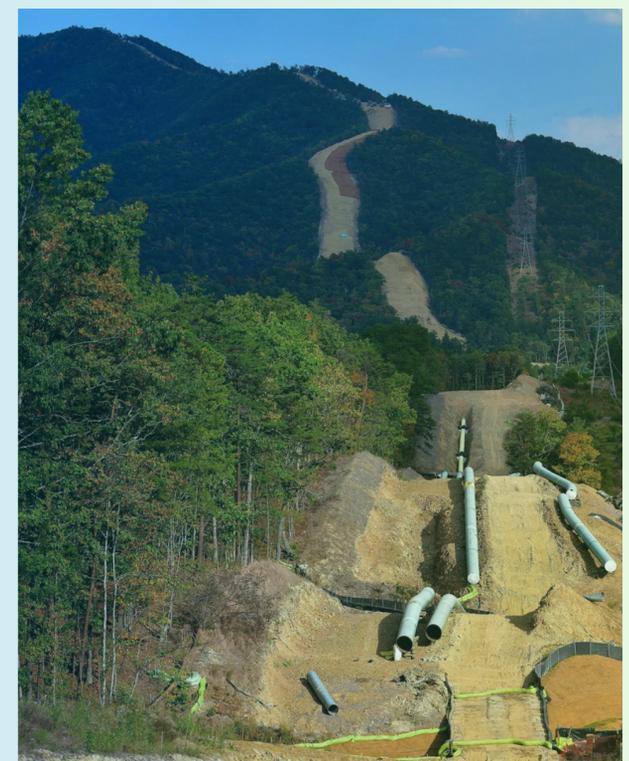
(2) Facilitating American energy production and technological innovation

This year, EPW Republicans enabled the final construction of the MVP through language in the debt ceiling legislation. When the Fourth Circuit Court of Appeals issued a stay on the pipeline's construction, Ranking Member Capito filed an amicus brief with GOP House members to support the completion of the MVP. Not surprisingly, the U.S. Supreme Court unanimously agreed to allow the MVP to resume construction.

Committee Republicans are also committed to furthering the development of advanced nuclear reactors through bipartisan legislation. Ranking Member Capito is the lead sponsor of the bipartisan *Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy (ADVANCE) Act* that passed out of the Committee with unanimous Republican support and passed the full Senate as part of the National Defense Authorization Act (NDAA) for FY2024. In addition, EPW Republicans have conducted crucial oversight of the Nuclear Regulatory Commission (NRC) to enable the continued operation and maintenance of our nation's existing nuclear assets. This November, Ranking Member Capito and Subcommittee Ranking Member Ricketts sent a letter to the NRC to urge the Commission to improve its management process for extending the licensing of operating nuclear reactors.

Did you know?

- **ZERO** Class VI well permit applications or state applications for primacy to implement carbon injection programs have been approved by the Biden administration.
- **61** projects covering **172** CO₂ injection wells are awaiting EPA approval.
- **Several states**, including WV, are waiting to obtain primacy to administer their own Class VI carbon injection programs.



**The Mountain Valley
Pipeline mid-construction**

(3) Exposing policies that inhibit economic development and hurt American consumers

To hold the Biden administration accountable for its job-killing agenda, the Senate passed, on a bipartisan basis, **six** Congressional Review Act (CRA) resolutions of disapproval within EPW's jurisdiction—the most in any Senate committee's jurisdiction this year. But for President Biden's veto, these resolutions would have prevented the Biden administration's illegal "Waters of the United States" rule, multiple wildlife regulations that stymie project development, and an unjustified regulation to impose massive costs on our nation's trucking industry from being implemented.

The Council on Environmental Quality (CEQ) recently defied clear congressional direction in the FRA to simplify the NEPA environmental review process. Instead, the CEQ has added new environmental review obstacles and given preference to certain project types over others. Ranking Member Capito and every EPW Republican demanded the CEQ correct course to implement the FRA as enacted and make the NEPA process more efficient for all types of projects. EPW Republicans have exposed the administration's inconsistent position of claiming to broadly support many types of technologies and infrastructure projects while at the same time empowering a federal advisory council to oppose those same solutions.

A Biden administration advisory body to the CEQ is officially against:

- **Fossil Fuels**
- **CCUS and Direct Air Capture**
- **Nuclear Power**
- **Highway Expansion**
- **Road Improvements**
- **Pipelines**
- **"Research and Development"**

White House Environmental Justice Advisory Council,
"Interim Final Recommendations," May 13, 2021.

(4) Opposing regulations that would hurt Americans' pocketbooks

In response to the EPA's proposed rules to regulate tailpipe greenhouse gas emissions from light-, medium-, and heavy-duty vehicles, Ranking Member Capito and 26 Senators, including all EPW Republicans, sent a letter to EPA Administrator Regan demanding the withdrawal of these rules. The letter expressed concerns over both the legality of the rules and the impracticality of forcing a massive, dangerously fast transition to electric vehicles. Such a move would increase electricity demand at a time when the Biden administration is forcing the shutdown of power plants that currently provide the vast majority of America's reliable, baseload power.

The partisan Inflation Reduction Act's (IRA) "Methane Emissions Reduction Program" (MERP) provision directed the EPA to impose and collect a tax on methane emitted by affected natural gas and petroleum facilities that report to the Greenhouse Gas Reporting Program (40 CFR 98, subpart W), and revise its subpart W requirements to facilitate the reporting and calculation of the tax. These changes will undoubtedly impose additional costs on American energy producers, manufacturers, and consumers—many of whom are already struggling with inflation generated in part from the passage of the IRA. Ranking Member Capito and four EPW Republicans sent a letter to EPA Administrator Regan urging the Agency to significantly revise its proposal.

"These proposals are legally flawed, divorced from reality...and would be devastating for American consumers and workers already burdened by sustained levels of historically high inflation."

-EPW Republicans (Letter)

"This proposal will arbitrarily increase the cost and burden of reporting under subpart W in service of growing the revenues generated by the MERP, which will result in making it more difficult and expensive to produce, transport and consume American energy."

-EPW Republicans (Letter)

Ensuring federal agencies follow the law

(1) Withdrawn FHWA Policy Memorandum

In direct response to EPW oversight, the Federal Highway Administration (FHWA) released a substantially revised replacement of its December 2021 policy memorandum in February 2023. The December 2021 memo had attempted to enact a wish list of progressive policies intentionally negotiated out of the bipartisan IIJA. If implemented, the December 2021 memo would have discouraged states from exercising their authority to build the types of projects their citizens need, like highway expansion projects. Ranking Member Capito threatened to lead a CRA resolution of disapproval of the December 2021 memo. That prompted the Biden administration to withdraw the memo and issue an improved replacement.

(2) EPA's Revised Waters of the U.S. (WOTUS) Rule

This past spring, EPW Republicans secured the bipartisan Senate passage of a CRA joint resolution of disapproval to overturn the repeal of the reasonable 2020 Navigable Waters Protection Rule (NWPR), by a vote of 53-43. In issuing the repeal, the Biden administration aimed to expand federal jurisdiction over lands and waters. This approach has created regulatory confusion and led to additional burdensome red tape for the nation's agricultural, construction, and energy industries. In May 2023, the U.S. Supreme Court agreed in a 9-0 decision in *Sackett v. EPA* that the federal government has narrow authority to regulate WOTUS, which was consistent with a congressional amicus brief led by Ranking Member Capito and joined by 45 senators, including all EPW Republicans, as well as 155 House members. In an October 2023 hearing following the ruling, EPW Republicans criticized the EPA and the U.S. Army Corps of Engineers for failing to fully implement the Supreme Court's *Sackett* decision.

(3) FHWA's Greenhouse Gas Performance Measure Rule

When the FHWA issued a 2022 proposal to impose a greenhouse gas (GHG) performance measure on state departments of transportation (DOTs) and metropolitan planning organizations (MPOs), Ranking Member Capito led a letter with EPW Republicans to FHWA to express their disapproval. In a June 2023 hearing, EPW Republicans voiced their concerns with the proposed rule to FHWA Administrator Shailen Bhatt. When the GHG performance measure rule was finalized in December, EPW Republicans blasted the FHWA for mandating DOTs and MPOs to set targets without any authority from Congress to do so. Senator Cramer has announced plans to formally challenge the rule through the CRA.

“Nowhere in the IIJA did Congress provide FHWA with any statutory authority to impose the performance measure or the requirement to set declining targets... FHWA cannot create of its own choosing the authority that Congress debated, considered, and rejected.”

-EPW Republicans (Letter)

(4) EPA's Clean Power Plan 2.0

When the EPA proposed its illegal, economically-damaging Clean Power Plan 2.0 to shut down the nation's coal and natural gas-fired power plants, EPW Republicans took action expose the rule's devastating effects on the reliability and affordability of electricity, if finalized. In August, Ranking Member Capito and all EPW Republicans sent a letter to EPA Administrator Michael Regan urging the withdrawal of the proposed rule. Ranking Member Capito also introduced the Protect Our Power Plants (POPP) Act in June, which would prevent the EPA from implementing its power plant regulation proposal.

“In direct conflict with *West Virginia v. EPA*, this proposal requires generation shifting from fossil-fuel power to other types of energy.”

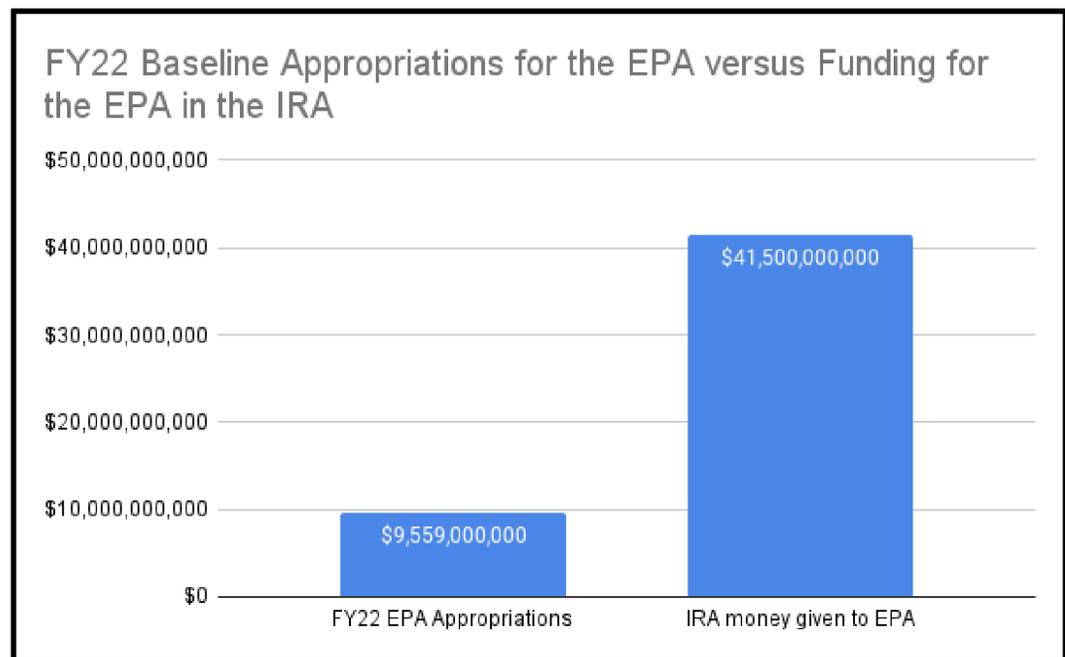
-EPW Republicans (Letter)

Exposing waste, fraud, and abuse in the Democrats’ Disastrous Inflation Reduction Act

The inflation-creating Inflation Reduction Act (IRA), projected to cost American taxpayers at least \$1.2 trillion, was negotiated behind closed doors in August 2022 and only passed when Democrats circumvented the regular order process. According to the EPA’s own projections, the law’s climate provisions will decimate the nation’s coal and natural gas sectors, kill American energy jobs, and compromise our energy security. During floor debate on the IRA, Ranking Member Capito sought to eliminate a provision that would have given the EPA \$45 million in additional funding to use eight different sections of the Clean Air Act to issue new regulations. That amendment failed 50-50 with every Senate Democrat voting no before Senator Capito successfully fought to have it removed on procedural grounds. Since passage of the IRA, EPW Republicans have conducted oversight of the law, including the implementation of the MERP (discussed above) and the administration’s announced plans to roll out additional, large buckets of funding in the coming months with little to no transparency.

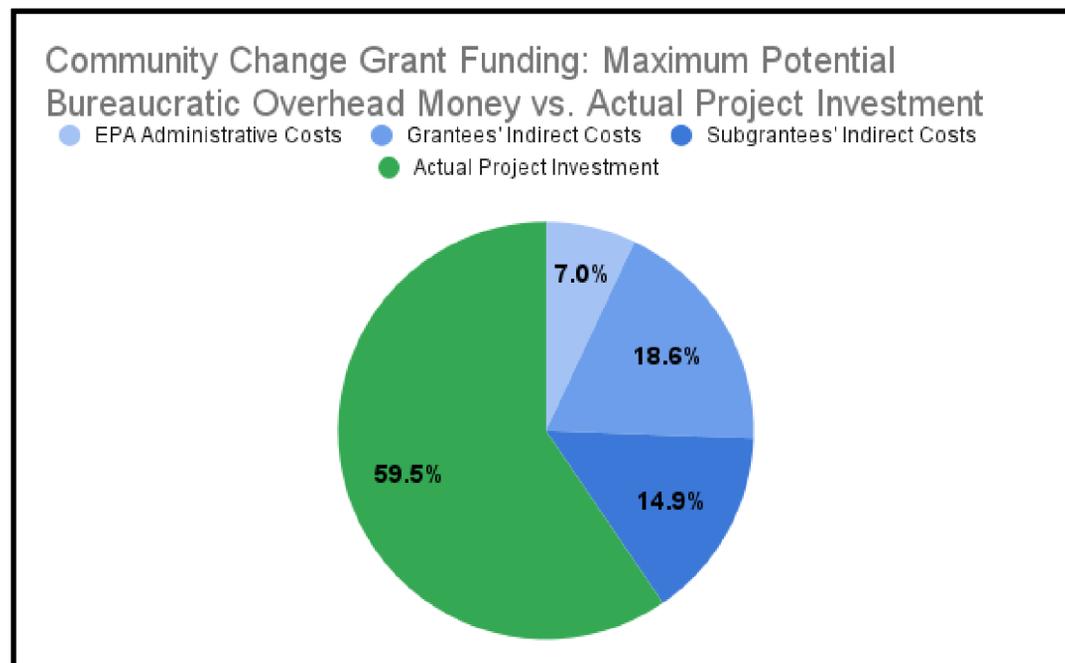
(1) The IRA’s \$27 billion “Green Bank” for activist climate groups

The IRA provided \$27 billion in funding for the EPA to establish a Greenhouse Gas Reduction Fund (“Green Bank”) of the total \$41.5 billion the climate law provided to the Agency. For months, EPW Republicans have warned that the Democrats’ reckless spending bill requires the EPA to release all of the “Green Bank” funding by September 30, 2024 — funding that is more than twice the Agency’s total annual appropriations. According to the EPA Inspector General, the amount of funding for the “Green Bank” and speed at which it must be issued makes the program especially at risk for waste, fraud, and abuse. The EPA has still not pushed any money out the door, meaning all of the funding must be distributed in less than a year.



(2) The IRA’s \$3 billion boondoggle to “advance” environmental justice

EPW Republicans have also flagged major concerns over the IRA’s Environment and Climate Justice Block Grant (ECJBQ) provision — a \$3 billion “give-away” to activist groups — that has no clear role in reducing GHG emissions. EPA Administrator Regan has promised that the \$2 billion ‘Community Change Grants’ portion of the ECJBQ will transform marginalized communities into “healthy, resilient, and thriving communities.” However, more than 40 percent of total funding can be used by the Agency, grantees, and subgrantees for administrative costs instead of going toward community projects. That funding serves to line the pockets of bureaucrats and community-based organizations — not help the American public, let alone address climate change.



See link to page 9 for information on the EPA’s administrative costs [here](#), and consult page 9 for grantees’ and subgrantees’ indirect cost limitation [here](#)

Combating extremist climate policies

(1) EPA's proposed Clean Power Plan 2.0 will threaten the power grid's reliability and weaken our energy security

Stakeholders from utilities to industry groups have sounded the alarm that the EPA's proposed Clean Power Plan 2.0 will devastate the nation's power grid reliability. EPW Republicans have led crucial oversight efforts to bring the flaws of the proposed rule to light. Ranking Member Capito has pledged to challenge the rule through the Congressional Review Act, and co-led a letter with the Ranking Member of the Senate Energy and Natural Resources (ENR) Committee, John Barrasso, to the Federal Energy Regulatory Commission (FERC) asking the FERC Chairman and the three Commissioners to devote time in a conference setting to analyzing the negative impacts the proposed Clean Power Plan 2.0 will impose on electric reliability. The FERC granted this request and questioned EPA Principal Deputy Administrator for the Office of Air and Radiation (OAR), Joseph Goffman, during its annual Reliability Technical Conference in November. Goffman repeatedly failed to defend the proposed rule from criticisms that it would severely imperil reliability.

“Unless the EPA withdraws or significantly revises its Proposed Clean Power Plan 2.0, the EPA will unnecessarily and significantly increase risks to electric reliability.”

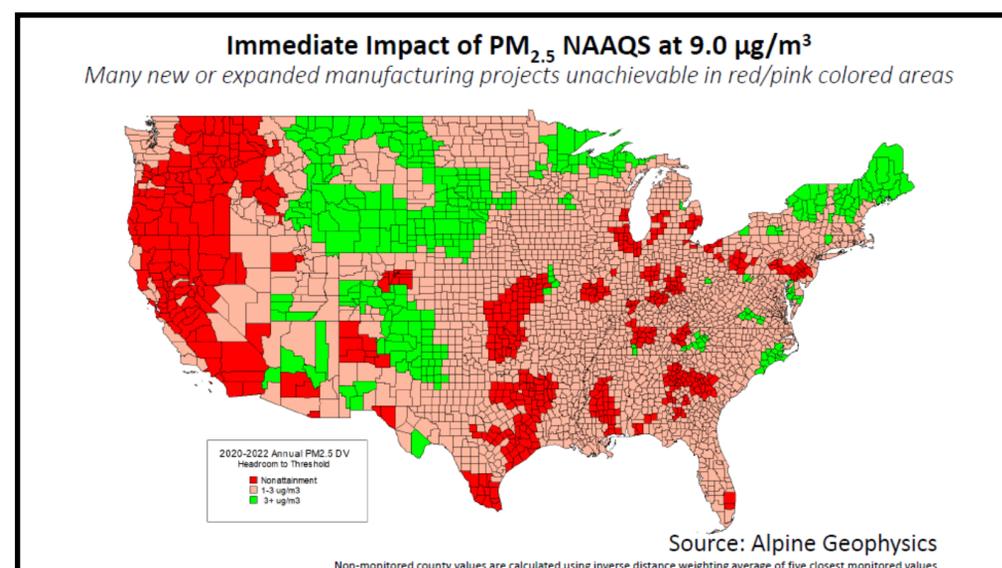
**-Ranking Member Capito
(joint letter with ENR
Ranking Member Barrasso)**

(2) EPA's so-called “Good Neighbor Rule” seeks to phase out reliable, baseload electric power generation

In response to the EPA's disastrous “Good Neighbor Rule” (GNR), which is intended to burden 23 states, including West Virginia, with harmful emissions reduction requirements, EPW Republicans took action. In June 2022, Ranking Member Capito sent a letter to EPA Administrator Regan detailing the Committee's concerns of the detrimental effects the rule would inflict on critical industries, such as iron, steel, and cement. In a March 2023 hearing, EPW Republicans criticized EPA OAR nominee Goffman for supporting a rule that would be catastrophic for the continued operation of the coal industry and our country's energy security. Courts around the United States have largely agreed with EPW Republicans' concerns, and have delivered a series of litigation losses to the GNR. When the rule finally went into effect, implementation of the GNR had been frozen in 10 out of the 23 states affected, including West Virginia.

(3) EPA's PM2.5 Rule will make it harder to build in America

To push back against the Biden administration's proposal to revise the particulate matter (PM2.5) national ambient air quality standard (NAAQS) to an unattainable level, EPW Republicans sent a letter to EPA Administrator Regan urging the Agency to establish a standard that is both attainable and economically feasible. EPW Republicans highlighted in their letter that setting a standard where the majority of the country is in or near nonattainment would lead to a host of consequences, including the offshoring of domestic manufacturing, job losses, electric reliability concerns, higher prices, greater reliance on China, energy insecurity, and slower economic growth. Recent reports suggest that the EPA is considering finalizing a rule that would plunge most of the country into or near nonattainment.

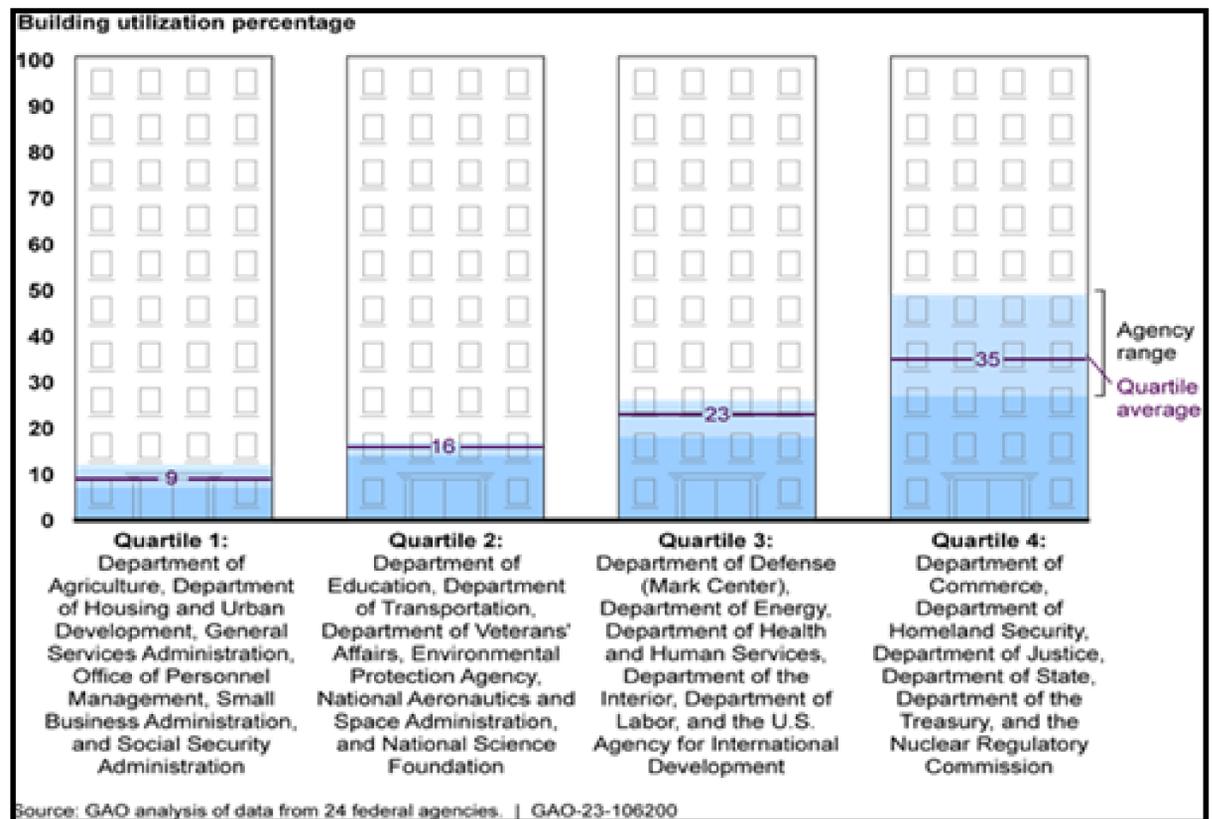


See link to graphic [here](#)

Reforming agencies' management and use of taxpayer resources

(1) Wasting Federal Real Estate Space

In September, EPW Republicans held an oversight [hearing](#) following a preliminary report from the Government Accountability Office (GAO) showing poor space utilization rates for 24 federal agencies at their headquarters buildings. Federal agencies under EPW's jurisdiction were among some of the worst-performing agencies in terms of building utilization rates. The federal government is wasting resources to heat, cool, and maintain space that sits vacant. That mismanagement not only wastes taxpayer funds, but also leads to unnecessary emissions associated with building maintenance.



See link to graphic [here](#)

(2) NRC's Misguided Telework Policies

In January 2023, Ranking Member Capito [wrote](#) the NRC to express concern about the Agency's proposal to increase the amount of remote work. Increased telework hinders the NRC's ability to efficiently review and approve new nuclear technologies, as well as wastes funding on unused federal office space. Following the NRC staff proposal to dramatically increase telework availability, the NRC Commissioners disapproved it citing, in part, congressional concern about the role remote work will have on NRC staff performance and the projected outlook to deploy advanced nuclear reactors.

(3) EPA's Mismanagement of TSCA Implementation, Including New Chemicals Program

In a [hearing](#) last year, Ranking Member Capito shed light on the Biden Administration's shortcomings in its implementation of the Toxic Substances Control Act (TSCA). Since then, the Biden EPA has continued to implement TSCA in a way that assumes unrealistic routes of chemical exposure, and in doing so, intrudes on the jurisdiction of other federal agencies, such as the Occupational Safety and Health Administration. The EPA's expansive claims of authority have delayed the chemical review process. These delays directly impede efforts to introduce new chemicals into commerce that support critical supply chains like semiconductors and batteries. EPW Republicans are working to ensure that the EPA: (1) reprioritizes its current resource allocation to issue timely reviews of new chemicals, and (2) utilizes the best available science in its risk evaluations. Ranking Member Capito has also filed oversight requests and engaged with the GAO to study the EPA's activities.

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